

Opinion

July 28, 1958

Mr. William A. Healy  
Technical Secretary  
New Hampshire Water  
Pollution Commission  
61 South Spring Street  
Concord, New Hampshire

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CONCORD, N.H.

Dear Bill:

You ask in your letter of July 21, 1958 whether a vote at a special town meeting authorizing the selectmen to borrow money from the Federal Government under Public Law 560, 83rd Congress is a vote to raise or appropriate money under RSA 31:5. This section prevents a town from raising or appropriating money at a special meeting unless there is a vote by ballot with the number of ballots cast representing one half of the number of legal voters on the check-list. This limitation does not apply in the case of special town meetings ordered by the superior court.

Before proceeding further with this question it should be noted that this problem is essentially a local matter involving the respective rights of towns and of the federal government and this opinion should in no sense be considered authoritative or binding on either. We attempt to answer it, however, for whatever help it may be to you in the performance of your official duties.

Under P.L. 560 (83rd Cong.) the federal government has funds available for loans to municipalities for the purpose of undertaking engineering investigations in connection with sewerage disposal projects. These loans are interest free and no obligation to repay the loans arises unless the sewage disposal project is undertaken by the town.

To appropriate money "is to set apart from the public revenue a certain sum for a particular purpose". Frost v. Hoar, 85 N.H. 442, 443. In RSA 31:5 the words "raise or appropriate" are

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used in the broad sense and include "any action the necessary effect of which is to raise or appropriate money". Childs v. Electric Co., 70 N.H. 318, 325. While the acceptance of a loan from the federal government under these provisions will not necessarily bind the town to a future obligation it will operate as a conditional obligation on the part of the town inasmuch as the town will be required to appropriate money to repay the loan should it subsequently choose to undertake a sewage disposal project. Consequently it is felt that at a special town meeting, not authorized by the superior court, the town may not authorize the execution of such an agreement with the federal government unless there is a vote by ballot and unless the total number of ballots cast equals at least one half of the names on the checklist.

Very truly yours,

Elmer T. Bourque  
Assistant Attorney General

ETB/g